REMARKS

The Final Office Action of January 13, 2005 has been reviewed and the comments therein were carefully considered. Claims 1-9, 45 and 46 are pending in the instant application. Claim 1 has been amended in this paper. No new matter has been introduced into the application.

Rejections Under 35 USC §102

Claims 1-6, 8-9, and 45 stand rejected under 35 USC §102(b) as being anticipated by Ford, et al., U.S. Patent No. 5,681,285.

Ford discloses a drug library containing a plurality of drug entries for use in a syringe pump. A standard drug library may be customized with additional drug entries through use a personal computer (PC). (Col. 11, lines 30-33). The customized drug library containing the supplementary drug entries may be downloaded into a syringe pump and utilized to administer selected therapeutics. (Col. 11, lines 33-38). Ford discloses the customization of a standard drug library similar to the customization of a standard database. The drug entries included in the drug library describe requirements for proper administration of specific drugs. For example, in Ford, when the physician puts a new drug into the pump, the physician can access a pre-set program with appropriate infusion characteristics for that drug and load that program into the pump. Once the physician selects the program, it remains constant regardless of patient activity.

With regard to currently amended independent claim 1, Ford does not disclose, teach, or suggest at least the claimed feature of "creating at least one personalized drug therapy program from the modified at least one preset clinician drug therapy program, the at least one personalized drug therapy program based on patient activity." (Emphasis Added). Ford is concerned with creation of a drug library containing drug entries having infusion characteristics for particular drugs for use in a syringe pump. Ford does not disclose, teach, or suggest the creation of "at least one personalized drug therapy program based on patient activity."

Support for the claimed feature of "at least one personalized drug therapy program based on patient activity" may be found in the Specification on Page 13, Paragraph 39 which states:

> Once the patient has created a personalized therapy program 190. a Save function can be selected. . . . For example, the user could label the just created personalized therapy program 190 a "Sleep" program. . . . The

> patient could repeat the above steps to create other personalized therapy programs 190, for example programs such as "Running", "Eating", "Sitting", "Exercising" and others.

As specified above, the creation of personalized therapy programs by patients may be based on a patient's particular activity at a specified moment in time. Such patient activities may include exercising, sleeping, sitting, or running. For example, a chronic pain patient may have more pain if they exercise for a period of time. The creation of the personalized therapy program enables a patient to direct therapy management for specific patient activities. Ford does not disclose, teach, or suggest at least this claimed feature. Therefore, for at least this reason, it is respectfully submitted that claim 1 is patentably distinct over Ford. Dependent claims 2-9 and 45-46 are allowable for at least the same reasons as independent claim 1.

Claims 1, 2, 7, 45 and 46 stand rejected under 35 USC §102(b) as being anticipated by Snell, U.S. Patent No. 5,456,691.

Snell discloses a programmer in which a control program for an implantable medical device is constructed from program modules that are selected by a physician. (Abstract). The modules may be individually loaded into the implantable medical device or may be combined into a single program, without necessitating an increase in the memory capacity of the implantable device. (Col. 2; lines 7-10). In Snell, a physician selects the software or functions (e.g. cardioversion or defibrillation) that the patient is expected to require. If the software or function is not loaded, the device will be incapable of performing the function.

With regard to currently amended independent claim 1, Snell does not disclose, teach, or suggest at least the claimed feature of "creating at least one personalized drug therapy program from the modified at least one preset clinician drug therapy program, the at least one personalized drug therapy program based on patient activity." (Emphasis Added). In contrast, Snell discloses the merging of entire program modules into a single program to conserve memory. For example, Snell at Column 4, lines 26-41 states:

> The physician selects program modules corresponding to those therapies and diagnostic routines that are thought to be most effective for the treating the patient at step 34, as shown in FIG. 2 and at step 134, as shown in FIG. 3. . . . As shown in FIG. 2, the modules are combined by the programmer 12 (FIG. 1) to create the cardiac 10 stimulating device control program at step 36.

The creation of a control program in Snell does not disclose, teach, or suggest the creation of "at least one personalized drug therapy program based on patien activity." (Emphasis Added). The control program, of Snell does not enable a patient to direct therapy management for specific patient activities. Therefore, for at least this reason, it is respectfully submitted that claim 1 is patentably distinct over Snell. Dependent claims 2-9 and 45-46 are allowable for at least the same reasons as independent claim 1.

Applicants therefore respectfully request reconsideration of the pending claims and a finding of their allowability. A notice to this effect is respectfully requested. Please feel free to contact the undersigned should any questions arise with respect to this case that may be addressed by telephone.

Respectfully submitted,

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William J. Allen 51,393

William J. Allen
Registration No. 51,393
BANNER & WITCOFF, LTD.
10 S. Wacker Drive, Suite 3000
Chicago, IL 60606-7407
Telephone: 312-463-5000
Facsimile: 312-463-5001